

On December 11, 1944, the matter came on for trial before a jury, and on December 14, 1944, the jury returned a verdict in favor of the Government. On February 19, 1945, judgment of condemnation was entered, and on May 8, 1946, the product was ordered delivered to public institutions.

MISCELLANEOUS FOODS

10341. Adulteration and misbranding of food colors. U. S. v. Alpha Aromatic Laboratories, a partnership, and Milton Ainbinder and Joseph Sirowitz. Pleas of guilty. Partnership fined \$170; individual defendants each fined \$850. (F. D. C. No. 17784. Sample Nos. 78372-F, 83152-F to 83154-F, incl., 88701-F, 93903-F.)

INFORMATION FILED: February 27, 1946, Eastern District of New York, against the Alpha Aromatic Laboratories, a partnership, Brooklyn, N. Y., and Milton Ainbinder and Joseph Sirowitz, partners.

ALLEGED VIOLATIONS: The defendants falsely represented and without proper authority used on the labels of products designated as "Bright Yellow Shade," "Raspberry Red Shade," "Brilliant Green Shade," "Yolk Yellow Shade," and "Brilliant Rose Shade," respectively, marks and identification devices authorized and required by the regulations. The said colors bore the marks and identification devices, "Lot A6567," "Lot B1624," "Lot B1764," and "Lot A8428," which had been assigned to persons other than the defendants for use on certain batches of certified coal-tar colors. The colors so labeled by the defendants were not from batches to which the identification devices had been assigned, but were uncertified coal-tar colors of different compositions. The colors so marked and a lot of "Royal Blue Shade" were shipped by the defendants between the approximate dates of March 3, 1944, and October 26, 1944, from the State of New York into the States of New Jersey, Pennsylvania, Massachusetts, and Connecticut.

NATURE OF CHARGE: Adulteration, Section 402 (c), the products, with the exception of the royal blue shade, contained coal-tar colors which were others than ones from batches that had been certified in accordance with the regulations; and, Section 402 (b) (4), (royal blue only) water had been added to the product so as to reduce its quality.

Misbranding, Section 403 (a), the statements, (bright yellow) "Contains 51% Color * * * Lot A6567," (raspberry red) "Contains 4.3% Color Lot B1624," (brilliant green) "Contains 3.5% Color Lot B1764," (yolk yellow) "Contains 51% Color Lot A6567," (brilliant rose) "Contains 4.2% Color Lot A8428," and (royal blue) "Contains 6.6% Color," borne on the respective labels, were false and misleading since the articles contained less than the labeled percentage of color; and those colors identified by the various lot numbers did not consist of coal-tar colors from batches than had been certified pursuant to the regulations and that had been assigned the various lot numbers as implied in the statements.

Further misbranding, Section 403 (i) (2), (all colors) they were fabricated from 2 or more ingredients, and their labels failed to bear the common or usual name of each ingredient; and, Section 403 (k), (raspberry red, brilliant green, brilliant rose, and royal blue shades) the products contained a chemical preservative, salts of benzoic acid, and failed to bear labeling stating that fact.

DISPOSITION: March 26, 1946. Pleas of guilty having been entered, the partnership was fined \$170, and each of the individual partners was fined \$850.

10342. Adulteration and misbranding of food colors. U. S. v. Fred C. Mattia (Premier Color Works). Plea of guilty. Fine, \$400. Defendant placed on 2 years' probation. (F. D. C. No. 16540. Sample Nos. 75951-F, 79100-F, 82764-F, 88279-F.)

INFORMATION FILED: March 8, 1946, Southern District of New York, against Fred C. Mattia, trading as the Premier Color Works, New York, N. Y.

ALLEGED SHIPMENT: Between the approximate dates of June 1 and July 17, 1944, from the State of New York into the States of Pennsylvania, Michigan, New Jersey, and Massachusetts.

LABEL, IN PART: "Verd-Oro A * * * For Technical Use," "Green Color DS * * * For Technical Use," "Special Olive Oil Preparation," or "Grassolio Special."

NATURE OF CHARGE: Adulteration, Section 402 (c), the products contained a coal-tar color, Quinizarin Green SS, D & C Green No. 6, which had not been listed for use in foods in accordance with the regulations and was other than one from a batch that had been certified.

Misbranding, Section 403 (a), the statement "For Technical Use" on the labels of the "Verd-Oro A" and the "Green Color DS" was false and misleading since the products were to be used for food purposes. Further misbranding (Special Olive Oil Preparation and Grassolio only), Section 403 (i) (2), the products were fabricated from two or more ingredients, and their labels failed to bear the common or usual name of each ingredient.

DISPOSITION: March 29, 1946. A plea of guilty having been entered, the defendant was fined \$400 and placed on probation for 2 years.

10343. Adulteration of coal-tar colors and flavors containing coal-tar colors. U. S. v. David Kleckner & Son, Inc. Plea of guilty. Fine, \$4,000. (F. D. C. No. 16574. Sample Nos. 78290-F, 87139-F, 88095-F, 88563-F.)

INFORMATION FILED: March 6, 1946, Eastern District of New York, against David Kleckner & Son, Inc. The information charged that the defendant falsely represented and without proper authority used an identification device authorized and required by the coal-tar regulations, in violation of Section 301 (i). The defendant changed in composition a quantity of a coal-tar color which had been certified by the Food and Drug Administration, and labeled the color so changed in composition, with the lot number under which it had been certified. The information charged also that the defendant shipped the color so changed in composition, 1 lot of unlisted and uncertified color, and 2 lots of flavors containing unlisted and uncertified colors between the approximate dates of April 22 and December 4, 1944, from the State of New York into the States of Pennsylvania, Michigan, and Massachusetts.

LABEL, IN PART: "Kleckner's 1 Quart Spinach Green Shade Color * * * Lot No. B-8016," "Kleckner Kolor Green Leaf," "Tipo Silica * * * Flavor," or "Ethers Edible Oil F D & C Yellow #3 Kleckner's Sicilia Ollo Flavor."

NATURE OF CHARGE: Adulteration, Section 402 (c), the Spinach Green Shade Color contained coal-tar colors, Guinea Green B (F D & C Green No. 1), Tartrazine (F D & C Yellow No. 5), and Orange I (F D & C Orange No. 1), which were others than colors from batches that had been certified in accordance with the regulations. The remaining colors contained Butter Yellow (C. I. #19) and Quinizarin Green SS (D & C Green No. 6), which colors had not been listed for use in foods in accordance with the regulations, and were others than ones from batches that had been certified in accordance with the regulations.

DISPOSITION: April 30, 1946. A plea of guilty having been entered on behalf of the defendant, a fine of \$4,000 was imposed.

10344. Adulteration of brown chicle. U. S. v. 184 Bags of Brown Chicle. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 17579. Sample No. 12422-H.)

LABEL FILED: September 20, 1945, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 18, 1945, by M. D. Bromberg, from New Brighton, Staten Island, N. Y.

PRODUCT: 184 Bags, each containing about 170 pounds, of brown chicle at East Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent hairs.

DISPOSITION: January 28, 1946. The Gum Products, Inc., Boston, Mass., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency, by the scraping of the outside of the blocks of chicle, by the cleaning off of all foreign matter, and by the washing and the filtering of it.